

**SB2349**



**96TH GENERAL ASSEMBLY**

**State of Illinois**

**2009 and 2010**

**SB2349**

Introduced 2/26/2009, by Sen. Ira I. Silverstein

**SYNOPSIS AS INTRODUCED:**

720 ILCS 5/16-20

Amends the Criminal Code of 1961. Provides for enhanced penalties if the defendant at the time of the commission of the offense is a pre-trial detainee at a penal institution or is serving a sentence at a penal institution.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 16-20 as follows:

6 (720 ILCS 5/16-20)

7 Sec. 16-20. Criminal penalties.

8 (a) Except for violations of Section 16-19 as provided for  
9 in subsection (b) or (c) of this Section, a person who violates  
10 Section 16-19 is guilty of a Class A misdemeanor.

11 (b) An offense under Section 16-19 is a Class 4 felony if:

12 (1) the defendant has been convicted previously under  
13 Section 16-19 or convicted of any similar crime in this or  
14 any federal or other state jurisdiction; or

15 (2) the violation of Section 16-19 involves at least  
16 10, but not more than 50, unlawful communication or access  
17 devices; or

18 (3) a person engages in conduct identified in  
19 subdivision (3) of Section 16-19 for the purpose of, and  
20 with the intention of, substantially disrupting and  
21 impairing the ability of a communication service provider  
22 to deliver communication services to its lawful customers  
23 or subscribers; or -

1           (4) the defendant at the time of the commission of the  
2           offense is a pre-trial detainee at a penal institution or  
3           is serving a sentence at a penal institution.

4           (c) An offense under Section 16-19 is a Class 3 felony if:

5                 (1) the defendant has been convicted previously on 2 or  
6                 more occasions for offenses under Section 16-19 or for any  
7                 similar crime in this or any federal or other state  
8                 jurisdiction; or

9                 (2) the violation of Section 16-19 involves more than  
10                50 unlawful communication or access devices; or

11                (3) the defendant at the time of the commission of the  
12                offense is a pre-trial detainee at a penal institution or  
13                is serving a sentence at a penal institution and has been  
14                convicted previously of an offense under Section 16-19  
15                committed by the defendant while serving as a pre-trial  
16                detainee in a penal institution or while serving a sentence  
17                at a penal institution.

18           (d) For purposes of grading an offense based upon a prior  
19           conviction under Section 16-19 or for any similar crime under  
20           subdivisions (b)(1) and (c)(1) of this Section, a prior  
21           conviction shall consist of convictions upon separate  
22           indictments or criminal complaints for offenses under Section  
23           16-19 or any similar crime in this or any federal or other  
24           state jurisdiction.

25           (e) As provided for in subdivisions (b)(1) and (c)(1) of  
26           this Section, in grading an offense under Section 16-19 based

1 upon a prior conviction, the term "any similar crime" shall  
2 include, but not be limited to, offenses involving theft of  
3 service or fraud, including violations of the Cable  
4 Communications Policy Act of 1984 (Public Law 98-549, 98 Stat.  
5 2779).

6 (f) Separate offenses. For purposes of all criminal  
7 penalties or fines established for violations of Section 16-19,  
8 the prohibited activity established in Section 16-19 as it  
9 applies to each unlawful communication or access device shall  
10 be deemed a separate offense.

11 (g) Fines. For purposes of imposing fines upon conviction  
12 of a defendant for an offense under Section 16-19, all fines  
13 shall be imposed in accordance with Article 9 of Chapter V of  
14 the Unified Code of Corrections.

15 (h) Restitution. The court shall, in addition to any other  
16 sentence authorized by law, sentence a person convicted of  
17 violating Section 16-19 to make restitution in the manner  
18 provided in Article 5 of Chapter V of the Unified Code of  
19 Corrections.

20 (i) Forfeiture of unlawful communication or access  
21 devices. Upon conviction of a defendant under Section 16-19,  
22 the court may, in addition to any other sentence authorized by  
23 law, direct that the defendant forfeit any unlawful  
24 communication or access devices in the defendant's possession  
25 or control which were involved in the violation for which the  
26 defendant was convicted.

1           (j) Venue. An offense under Section 16-19 may be deemed to  
2 have been committed at either the place where the defendant  
3 manufactured or assembled an unlawful communication or access  
4 device, or assisted others in doing so, or the place where the  
5 unlawful communication or access device was sold or delivered  
6 to a purchaser or recipient. It is not a defense to a violation  
7 of Section 16-19 that some of the acts constituting the offense  
8 occurred outside of the State of Illinois.

9           (Source: P.A. 92-728, eff. 1-1-03; 93-701, eff. 7-9-04.)